

App. No. 09/905,738  
Amendment Dated: December 22, 2004  
Reply to Office Action of September 29, 2004

### REMARKS/ARGUMENTS

Claims 1-20 remain in this application for further consideration in light of the foregoing amendments and remarks. The specification has been amended as set forth above to correct an informality. Claims 1, 2, 10, 11, 15, 16, and 20 have been amended. No new matter has been added.

#### Objection to Title

The Office Action objected to the title as not being descriptive. In response, Applicants have amended the title.

#### Objection to Hyperlinks and other forms of browser-executable code in the specification

The Office Action stated objected to the user of hyperlink and browser executable code was improper and must be removed. In response, the Applicants have amended the specification to further clarify that the hyperlinks and code are not active. The Applicants do not intend this hyperlink or code to be active. The codes are merely examples to help satisfy the requirements of 35 U.S.C 112, first paragraph. The Applicants respectfully submit that the objection be withdrawn. (See 608.01 paragraph VII, Examiner Note 4).

#### Rejection of Claims 1-20 under 35 U.S.C. 112

The Office Action rejected Claims 1-20 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicant regards as the invention. The Office Action specifically stated that the scope of

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meaning for "the performance" and "the control" was not clear. The Office Action also requested the Applicants to check the rest of the claims. In response, Applicants have removed "the performance" and "the control" from the claim language. Applicants have also amended Claims 1, 2, 10, 11, 15, 16, and 20.

The Office Action rejected Claims 11-15 under 35 U.S.C. 101 because they do not comfortably fit into anyone of the statutory subject matter. Applicants respectfully disagree. The support for a modulated data signal may be found in Applicants' specification on page 7.

"Communication media typically embodies computer-readable instructions, data structures, program modules, or other data in a modulated data signal such as a carrier wave or other transport mechanism and includes any information delivery media. The term "modulated data signal" means a signal that has one or more of its characteristics set or changed in such a manner as to encode information in the signal. By way of example, communication media includes wired media such as twisted pair, coaxial cable, fiber optics, wave guides, and other wired media and wireless media such as acoustic, RF, infrared, and other wireless media."

Further, many patents have been issued by the US Patent Office including modulated data signal claims. For example, see claims 6, 15, 24 and 32 of U.S. 6,684,246.

Applicants have amended Claim 11 to more clearly illustrate that the modulated data signal includes computer executable instructions. The Applicants respectfully request withdrawal of the rejection for Claims 11-15.

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FROM-MERCHANT & GOULD P.C.

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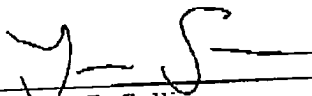
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In view of the foregoing amendments and remarks, all pending claims are believed to be allowable and the application is in condition for allowance. Therefore, a Notice of Allowance is respectfully requested. Should the Examiner have any further issues regarding this application, the Examiner is requested to contact the undersigned attorney for the applicant at the telephone number provided below.

Respectfully submitted,

MERCHANT & GOULD P.C.

  
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